THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P.No. 23076 of 2006

DATE: 08-11-2006

Between:

D. Vijaya Sekhar and seven others.

..Petitioners.

And

The Southern Power Distribution Company Ltd.,
Tirupati rep., by its Chairman & Managing Director and two others.

..Respondents

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P.No. 23076 of 2006

O R D E R:

The petitioners, who are working as contract labour in the respondents-APSPDCL, applied to the posts of Contract Junior Linemen in response to the notification issued by the respondents-APSPDCL. The case of the petitioners is that they are all over-aged and not eligible to apply the said post in terms of the present notification. However, it is their case that since they are working as contract labour in the respondents-APSPDCL for more than 10 years and discharging their duties as that of the work charged establishment on daily wages, the respondents have the power to relax the condition of age limit as per the note appended to Rule 5 of the Andhra Pradesh Electricity Department Operation and Subordinate Service Rules (for short "the Rules"). They further state that the respondents have relaxed the said condition in the case of similarly placed persons, and not extending the same to the petitioners is illegal and arbitrary. Hence, they filed the present writ petition.

2. Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents-APSPDCL.

3. Learned counsel for the petitioners submits that the age limit prescribed in the notification for applying to the post of contract Junior

Linemen is not below 18 years and not above 35 years as on the date of notification i.e., dated 06.06.2006, and since all the petitioners are aged about more than 35 years, if the said outer limit of 35 years of age is taken into consideration, they are not eligible for consideration. He further submits that as per the note appended to Rule 5 of the Rules, the age limit referred to in Rule 5 shall be relaxed to the extent of the period served, if any, in work charged establishment on daily wages as the case may be, and that Condition 6(b) of the revised notification states that if contract labour and fresh candidates apply for the post, the contract labour will be given preference for selection. Relying on the said conditions, learned counsel for the petitioners submits that since the petitioners have been working as contract labour in the respondents-APSPDCL for more than 10 years and discharging their duties as that of work charged establishment on daily wages, they are entitled for relaxation of age to the extent of the period they served in the capacity of contract labour. He further submits that the respondents extended the said benefit to similarly situated persons and not extending the same to the petitioners, in spite of their submitting applications, is discriminatory, illegal and arbitrary. In support of his contentions, he also relied on a decision of the apex Court in ***Steel Authority of India v. National Union Water Front Workers***[1].

4. In view of the said contentions, it is pertinent to extract the Note appended to Rule 5 of the Rules, which reads thus.

> "Rule 5: "Rule 5 Qualification: (1) No person shall be eligible for appointment to any category or grade, if he has completed 25 years of age as on the date of appointment.
>
> **Note**: 1) This age limit referred to in this Rule shall

be relaxed to the extent of the period served, if any in work charged establishment on daily wages as the case may be."

5. A reading of the note appended to Rule 5 of the Rules shows that the age limit referred to in Rule 5 should be relaxed to the extent of the period served, if any, in work charged establishment on daily wages. The petitioners contend that they are discharging the duties as that of work charged establishment on daily wages, and therefore, they are entitled to relaxation of age to the extent of the period they served in the capacity of contract labour. This Court has no expertise or knowledge to decide what are the nature of works the petitioners are doing. The issue as to whether or not the petitioners are entitled to be given the benefit of relaxation of age, is a policy matter of the respondents-APSPDCL.

6. Having regard to the facts and circumstances of the case, and in view of the fact that the petitioners have already submitted their applications for the posts of contract Junior Linemen, I deem it appropriate to dispose of the writ petition with the following direction.

The respondents-APSPDCL are directed to consider the issue of extending the benefit of age relaxation as pleaded by the petitioners at the time of selection of the posts, which they have notified, in terms of the note appended to Rule 5 of the Rules,.

7. Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J

Dated: 08 -11-2006
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[1] AIR 2001 SCW 3574